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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/746,947	12/21/2000	Marc S. Lemchen	P946	2376
79782      7590      07/10/2012 Law Offices of Daniel L. Dawes Dawes Patent Law Group 5200 Warner Blvd, Ste. 106 Huntington Beach, CA 92649				
EXAMINER				
DOAN, DUYN MY				
ART UNIT		PAPER NUMBER		
2452				
NOTIFICATION DATE		DELIVERY MODE		
07/10/2012		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ddawes@dawespatents.com  
mdawes@dawespatents.com

### Office Action Summary

**Application No.**

09/746,947

**Applicant(s)**

LEMCHEN, MARC S.

**Examiner**

DUYEN DOAN

**Art Unit**

2452

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 May 2012.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 5) ☒ Claim(s) 37 and 38 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 27-38 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 5/18/2012 has been entered.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 27-38 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, support in Applicant's

specification could not be found for the feature (reduction of emotional or neurological tension, sensor responsive to emotional or neurological tension, treating emotional or neurological tension). To overcome this rejection, Applicant should point out to specific portions of the specification that provide the written description for the feature, or applicant has to cancel such limitation.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 27-29,33,35,37-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ark et al (us 6,190,314) (hereinafter Ark) and Korenman et al (us 6,026,322) (hereinafter Korenman).**

As regarding claim 27, Ark discloses a programmable controlled computer means coupled to the computer network for executing an interactive program to generate a modifiable treatment of mental tasks for reduction of emotional or neurological tension personalized to the user (see Ark col.1, lines 34-48; col.2, lines 11-62; col.3, lines 14-20, lines 47-67; col.6, lines 55-67, also see figure.1, computer 16) ;  
at least one sensor responsive to emotional or neurological tension in the user to provide the automatic biofeedback input to the computer means (see Ark col.1, lines 34-

48; col.2, lines 11-62; col.3, lines 14-20, lines 47-67; col.6, lines 55-67, also see figure.1, sensor 28).

Ark is silent in regard to a computer means monitors compliance by the user with the treatment of emotional or neurological tension reduction, where the treatment is modifiable according to the compliance of the user with the treatment, according to: the performance of the user in the treatment for emotional or neurological tension reduction, situational events to which the user is subjected, biofeedback from the user during performance of treatment for the emotional or neurological tension reduction or at times other than during the performance of the treatment for emotional or neurological tension reduction; and/or information input into the computer by the user relating to personalized emotional or neurological characteristics of the user.

Korenman teaches the concept of a computer means monitors compliance by the user with the treatment of emotional or neurological tension reduction, where the treatment is modifiable according to the compliance of the user with the treatment (see Korenman col.2, lines 4-37; col.3, lines 11-22, lines 37-53; col.4, lines 1-13; col.6, lines 47-67; col.10, lines 45-67), according to: the performance of the user in the treatment for emotional or neurological tension reduction, situational events to which the user is subjected, biofeedback from the user during performance of treatment for the emotional or neurological tension reduction or at times other than during the performance of the treatment for emotional or neurological tension reduction and/or information input into the computer by the user relating to personalized emotional or neurological

characteristics of the user (see Korenman col.2, lines 4-37; col.3, lines 11-22, lines 37-53; col.4, lines 1-13; col.6, lines 47-67; col.10, lines 45-67).

It would have been obvious to one with an ordinary skill in the art at the time the invention was made to incorporate the teaching of Korenman with Ark because they're analogous art. A person would have been motivated to modify Ark with Korenman's teaching for the purpose of enhancing the treatment process (see Korenman col.1, lines 28-31).

As regarding claim 28, Ark-Korenman discloses the programmably controlled computer means coupled to the computer network for executing a program to generate a modifiable treatment of mental tasks comprises a programmably controlled computer arranged and configured to provide a treatment comprised of tasks for breathing, relaxation, concentration, or meditation (see Korenman col.2, lines 4-37; col.3, lines 11-22, lines 37-53; col.4, lines 1-13; col.6, lines 47-67; col.10, lines 45-67). The same motivation was utilized in claim 27 applied equally well to claim 28.

As regarding claim 29, Ark-Korenman discloses the treatment is modifiable according to the compliance of the user with the treatment according to information input into the computer means by the user relating to personalized emotional or neurological tension related history of the user (see Korenman col.2, lines 4-37; col.3, lines 11-22, lines 37-53; col.4, lines 1-13; col.6, lines 47-67; col.10, lines 45-67). The same motivation was utilized in claim 27 applied equally well to claim 29.

As regarding claim 33, the limitations of claim 33 are similar to limitations of rejected claims 27-29 above, therefore rejected for the same rationale.

As regarding claim 35, Ark-Korenman discloses the treatment personalized to the user is generated on the user's client computer (see Korenman col.2, lines 4-37; col.3, lines 11-22, lines 37-53; col.4, lines 1-13; col.6, lines 47-67; col.10, lines 45-67). The same motivation was utilized in claim 27 applied equally well to claim 35.

As regarding claims 37-38, the limitations of claims 37-38 are similar to limitations of rejected claims 27-29 above, therefore rejected for the same rationale.

**Claims 30-32,34,36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ark-Korenman as applied to claims 27,33 above and further in view of what was well known in the art.**

As regarding claims 30, 34 Ark-Korenman discloses the invention as claim in claims 27, 33 above, however Ark-Korenman is silent in regard to a remote server hosting the program.

Official Notice is taken (see MPEP 2144.03) a remote server hosting the program is well known at the time the invention was made.

It would have been obvious to one of ordinary skill in the art to incorporate a remote hosting server to the invention of Ark-Korenman because this feature is well known. A person would have been motivated to modify Ark-Korenman's invention with

a hosting server for the purpose of reducing the processing load on the local computer.

As regarding claims 31, 36 Ark-Korenman-what was well known in the art discloses program is downloaded by the user from the remote server via the computer network and is run on the computer means (this feature is well known in the art) the rationale for rejecting claim 30 applied to claim 31.

As regarding claim 32, Ark-Korenman-what was well known in the art discloses the program is run directly from the remote server via the network (this feature is well known in the art) the rationale for rejecting claim 30 applied to claim 31.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DUYEN DOAN whose telephone number is (571)272-4226. The examiner can normally be reached on M-T 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thu V. Nguyen can be reached on (571) 272-6967. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DUYEN M DOAN/  
Primary Examiner, Art Unit 2452